

**IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL.**

Writ Petition No. 926 (MB) of 2006

Darshan Lal,
Son of late Sri Juggi Lal,
Sr. Assistant,
Tehsil – Devprayag, Tehri Garhwal,
Residing at House No. 8, Block – 2,
Narendra Nagar,
District – Tehri Garhwal.

.....**Petitioner**

V e r s u s

1. State of Uttaranchal through Secretary, Revenue Department, Dehradun, District – Dehradun.
2. District Magistrate / Collector, New Tehri, District – Tehri Garhwal.
3. Sub Divisional Magistrate, Narendra Nagar, Tehri Garhwal.

.....**Respondents**

Coram:

Hon'ble M.M. Ghildiyal, J.

Hon'ble B.S. Verma, J.

Heard Sri Rakesh Thapliyal, learned counsel for the petitioner and Sri K.P. Upadhyay, learned counsel for State of Uttaranchal on behalf of respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

- (a) *issue a writ, order or direction in the nature of Certiorari quashing the impugned notice dated 29.06.2006 issued by Sub Divisional Magistrate, Narendra Nagar, District – Tehri Garhwal.*
- (b) *issue a writ, order or direction in the nature of Mandamus directing the respondents not to take action against the petitioner for vacating the House No. 8, Block – 2 Narendra Nagar, District – Tehri Garhwal.*

(c) *Issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

(d) *Award to cost of the petitioner to the petitioner.*

Petitioner is aggrieved by the order dated 29.06.2006 passed by Sub Divisional Magistrate, Narendra Nagar by which he has cancelled the allotment of the government accommodation, which was earlier allotted to the petitioner in the month of December, 2004.

The order of cancellation has been passed by Sub Divisional Magistrate, Narendra Nagar, on the ground that since petitioner, who is working as Senior Assistant in Revenue Department is presently posted at Devprayag, consequently, he is not entitled to retain the government accommodation at Narendra Nagar.

Learned counsel for the petitioner has submitted that allotment of the government accommodation was made in favour of the petitioner by the Sub Divisional Magistrate, Narendra Nagar in pursuance to the order dated 24.12.2004 passed by District Magistrate, Tehri Garhwal whereas cancellation order has been by Sub Divisional Magistrate, Narendra Nagar without obtaining approval from the District Magistrate, Tehri Garhwal.

Learned counsel for the petitioner has submitted that Sub Divisional Magistrate, Narendra Nagar has not obtained permission from District Magistrate, Tehri Garhwal prior to cancelling the allotment of government accommodation, which was earlier allotted to the petitioner.

We do not find any force in the submission of the learned counsel for the petitioner, as such, the submission is rejected.

Learned counsel for the petitioner has submitted that petitioner has four children, who are studying at Nagendra Nagar, and a week's time was granted to him to vacate the Government accommodation.

Learned standing, counsel has submitted that more than a month has been passed but till date petitioner has not vacated the government accommodation.

Learned counsel for the petitioner has submitted that some time may be granted to him for vacating the accommodation in dispute, in view of the fact that, his children are studying and residing at Narendra Nagar.

In the circumstances stated above, we deem it fit and proper to direct the petitioner to make representation before District Magistrate, Tehri Garhwal within a period of one week from today and District Magistrate, Tehri Garhwal shall decide the representation of the petitioner within a period of two weeks from the date of production of certified copy of this order along with representation.

Till 31.08.2008 or till the decision is taken on the aforesaid representation by the District Magistrate, Tehri Garhwal, whichever is earlier, petitioner shall not be evicted from the Government Accommodation in dispute.

With this direction, the writ petition is finally disposed of. No order as to costs.

Copy of the order shall be given by tomorrow to the counsel for the petitioner on payment of usual charges.

(B.S. Verma, J) (M.M. Ghildiyal, J)

August 04, 2006
SKSharma